

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-1356

James E. Mooney,

Appellant,

v.

State of Minnesota,

Appellee.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: May 26, 1998

Filed: May 27, 1998

Before BOWMAN, Chief Judge, WOLLMAN, and MORRIS SHEPPARD ARNOLD,
Circuit Judges.

PER CURIAM.

James E. Mooney appeals from the district court's¹ denial of his motion to proceed in forma pauperis and dismissal of his complaint prior to service pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Liberally construing Mr. Mooney's complaint and

¹The Honorable Paul A. Magnuson, Chief Judge, United States District Court for the District of Minnesota, adopting the report and recommendation of the Honorable Jonathan G. Lebedoff, United States Magistrate Judge for the District of Minnesota.

accepting his contention that he sued the Minnesota Department of Corrections and state agents in their “official capacity,” we conclude his action requesting declaratory relief for conduct that occurred over thirty-five years earlier was barred by the Eleventh Amendment. See Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc., 506 U.S. 139, 146 (1993); Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 99-100 (1984). Accordingly, we affirm the judgment of the district court. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.